FOR MYSORE STATE

REVENUE 1950 (195) Department.

SERIES.

M.S.

G.O. NO.

Dated

23.2.1950.

[Despatch Abstract.]

Encroachment - Land - Postponement of evic
alling for reports and grant of copies of orders of postpone-
ment - to the parties concerned - instructions - papers recorded.

Copy for Mysore.

Revenue Department.

Extract of Secy's remarks on a peth. in C.No.77615 A/49 relating to the subject: "Encroachment - Land - North Arcot) - Arkonam taluk and town - S.No.338 - Eviction.

**

"The parties met the Tahr. with the copy of the memo. under mu instruction Perhaps he is finding himself in an embarrassing situation. However under the present situation pullin down of the shops has to be stopped, since otherwise Govt. cannot complete the action initiated. However a general examination may also be done in another file."

K.M.U.
19-1-50.

To A.S.

xx xx

With refere ce to a above, relevant extracts will be taken and the question will be examined separately in another file

xx xx

P.A.,
19-1-50

K.M.U.
19-1-50.

To A.S.

Please see the extract of Secy's. orders above.

2. In land encroachment cases, the Board of Revenue is the final appellate authority. There is no provision in the Land Encroachment Act for an appeal to the Govt. against the Board's orders. The question whether the Govt. can legally interfere with the orders of the Board under the L.E. Act was recently examined. The Legal position is that the Govt. cannot interfere with the orders of the Board of Revenue or the Collector in land encroachment cases under the L.E. Act, but can issue orders laying up benefits that may accrue the Govt. as a result of the orders of those authorities. Hence

ther is no objection for the Govt. calling for reports from the Collector or the Board if they consier such a course of action necessary. While cal ing for reports from the Collector or the Board, stay of eviction proceedings is not granted, unless it is specifical y ordered by H.Ms. or Secy. Secy. had remarked in another file as follows: "Ordinarily there can be no question of granting stay, i.e. asking for postponement of further action in cases where under statute Govt. have no power to inteffere. But I have no objection to call for remarks" A case came to the notice of the Govt. that before the report called for from the Collector was received, it was reported that the parties were threatened with viction proceedings on the ground that the Govt. had not expressly ordered stay of eviction while calling for report. In that file, it was considered that no useful purpose would be served by getting a report from the Collector, if the eviction was carried out in the meanwhile. The question for consideration is whether in calling for remarks of the Collector or the Board, stay of eviction proceedings may also be ordered. From the legal position mentioned above, it will be seen that the Govt. can issue orders giving up benefits that may accrue to the Govt. as a result of the orders of the Board or Collector This can be done only after a report is called for from those authorities and examined in the first instance. Stay of eviction proceedings seems to be necessary invariably in such cases, as otherwise, it would serve no useful purpose, if the authorities carry out eviction before sending the report to the Govt. It is also submitted that some parties request that a copy of the stay orders may be granted to them. Unless otherwise ordered, it is not usual for the Govt. to grant copies of stay orders in such cases to the parties. In cases where orders of stay of viction proceedings are intimated to the

Ordinarily, when a report has been called for, it may be expected that local authorities willrefrain from their action to direct the encroachment.

9-2-50.

Collector, it takes some time for the stay orders being communicated to the local revenue authorities. viz, the R.D.C., the Tahr. and the R.I. In the meanwhile, the local revenue authorities, being ignorant of the stay orders issued by the Govt. and communicated to the Collr. direct, may initiate eviction proceedings. If copies of the stay orders are com unicated to the parties also, it will enable them to produce the same before the local revenue autho ities.at the critical juncture. It is also subd. that in respect of appeals in encroachment cases filed before the Board of Rev. by the parties, stay orders are invariable communicated to theparties also by the Board.

3. In the circumstances, it is for orders:-

(1) whether in cases in which the reports of the Collr. along with the Board's remarks are called for by the Govt. in land encroachment cases, stay of eviction proceedings till final orders of the Govt. are passed in the matter will also be ordered simultaneously; and

(2) whether in cases where stay of eviction proceedings is ordered, a copy of the order may be also be communicated to the party concerned.

The points for orders are summarised in para 3 above

In land encroachment cases, we may ordinarily expect that when a report has been called for, the legal authorities will postpone eviction until the report has been submitted and the orders of Govt. have been receive In certain recent cases in Arakonam, it has be n brought to notice that the Tahr. refused to postpone eviction eventhough the parties showed the orders of Govt. calling for a report in the matter. As observed by Sec a mere eviction calling for a report will serve no useful prupose, if in the meantime the local authoriti

carry out eviction. So, whenever we decide to call for a report in land encroachment case, we may also issue an order asking the local authorities to postpone eviction till final orders are passed. There seems to be no legal objection to such a course. Para 3 (2) in p.3 above may be approved.

All right but the absence of such a direction when a report has been called for should not be taken which mean that the encroachment should be moved.

To

A.S.

The papers may be recorded.

It may first be circulated in office.

G.O.Ms.No.486 d/23-2-1950

Encroachment - Land - Postponement of eviction proceedings while calling for reports and grant of copies of orders of postponement - to the parties concerned - Instructions papers recorded

Compared by:—
V. Krishna Rao
6/6
Superintendent

True Extract
M.V. Krishna Rao
Superintendent.